

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

David Czapiewski,
Plaintiff,

V.

Case No.: 22-cv-435-bh1

Trever Klemmer,
Defendant.

~~Proposed Amended~~
CIVIL RIGHTS COMPLAINT

Plaintiff David Czapiewski ("Czapiewski") hereinafter
Appearing Pro Se Complains against defendant denominated above
as follows:

PRELIMINARY STATEMENT

1. This is an action brought pursuant to 42 U.S.C. § 1983 seeking declaratory relief and damages for Czapiewski, a prisoner currently confined at Green Bay Correctional Institution ("GBCI") and at all times material to this action was confined at Waupun Correctional Institution ("WCI") and was housed in the Health and segregation Complex ("HSC"). This action alleges Defendant Trever Klemmer ("Klemmer") violated Czapiewski's 8th Amendment Rights of the United States Constitution for excessive force while being malicious and sadistic.

jurisdiction

2. This court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 because this action arises under the Constitution, Laws and treaties of the United States, and Pursuant to 28 U.S.C. § 1343(a)(3) because this action seeks to redress the deprivation, under the color of State Law, of Czapiewski's Civil Rights.

3. This Court has jurisdiction to grant ^{SC} declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202 and Fed.R.Civ.P Rule 57.

Venue

4. Venue is proper in this judicial district Pursuant to 28 U.S.C. § 1391(b) because this defendant resides in this judicial district.

Parties

5. Plaintiff Czapiewski, at all times relevant to this action, was a United States Citezen. Czapiewski is a prisoner, convicted by the State of Wisconsin and is under control of the Wisconsin Department of Corrections ("DOC").

6. Defendant Klemmer was responsible for the safe, secure, and humane custody of all prisoners housed in WCI and on ~~November 4,~~ **October 4,** 2017, was employed by the DOC at WCI during the allegations of this action, located on 200 S. Madison St. Waupun, WI 53963, and at all times material to this action acted under the color of State Law and is sued in his individual capacity for money damages and his official capacity for Declaratory relief.

ALLEGATIONS OF FACT

7. On ~~November 4,~~ **October 4,** 2017 Czapiewski was brought to the HSC Pending a conduct report and placed on Temporary Lock-up.

8. When Czapiewski got to HSC he was seen at the nurses station for bloody nuckles and to take his anxiety medication, Clanazepam and was treated.

9. Czapiewski was agitated and expressing his thoughts verbally about the reason he was taken to HSC.

10. While in the nurses station Czapiewski heard a maintenance man mocking him and Czapiewski pulled out of the grip of Klemmer.

11. Klemmer than Grabbed Czapiewski with Two hands and slammed him on his back while Hand cuffed to the back and upon information and belief was shackled by the ankles.

12. Then Klemmer strattled Czapiewski's Stomach like he was riding a horse and began hitting Czapiewski 5 times in the mouth and 5 times in the Brachial Plexus as hard as he could while Czapiewski was subdued.

13. Defendant Klemmer was approximately 250 lbs and so was Czapiewski so Czapiewski couldn't put anyone in danger.
14. Czapiewski Believes he was shackled by the ankles as well as cuffed to the back.
15. Czapiewski posed no threat to Klemmer or the nurse in the room after being subdued.
16. Klemmer unnecessarily struck 10 closed fist strikes to Czapiewski as hard as he could when Czapiewski posed no danger.
17. Klemmer hit Czapiewski maliciously and sadistically.
18. As a direct and proximate cause of klemmer hitting Czapiewski he suffered bruising of the Brachial Plexus and a laceration that bleed profusely in Czapiewski's inner bottom lip, and suffered mental and emotional anguish.
19. Czapiewski Exhausted his administrative remedies in complaint # WCI-2017-26347.

1st cause of action

20. Re-alleging and incorporating herein by reference paragraphs 1 thru 20, Czapiewski alleges that Klemmer used excessive force maliciously and sadistically when he struck Czapiewski closed fist 5 times in his Brachial Plexus and 5 times in the mouth Causing Bleeding and Bruising in violation of the Eighth Amendment of the United States Constitution.

Relief requested

A. Declaratory relief stating that Czapiewski's Civil Rights were Violated.
B. Compensatory Damages in the amount of \$500,000 for physical injury and emotional stress.
C. Punitive Damages in the amount of \$50,000 to punish defendant Klemmer for being so egregious by deliberately trying to hurt Czapiewski.
D. Any and all relief this Court may deem Just and fair.
E. A jury trial on all matters triable.

Verification

Pursuant to 28 U.S.C. § 1746 I, David Czapiewski declare under penalty of perjury that the foregoing allegations of fact are true and correct to the best of his personal knowledge and beliefs.

Wherefore Plaintiff David Czapiewski Prays and requests this Court GRANT relief sought herein.

Respectfully Submitted,

^{19th}
Dated this ~~19th~~ day of ~~April~~ June, 2022.

David Czapiewski
David Czapiewski

David Czapiewski #321854
Green Bay Correctional Institution
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